

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:11-CV-604-F

ERICA LAUREN CARTER BENTLEY,

Plaintiff,

v.

NORTH CAROLINA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES VITAL  
RECORDS, et al.,

Defendants.

**ORDER**

This matter is before the court on the Motion/Declaration for Reconsideration [DE-9] filed by Plaintiff Erica Lauren Carter Bentley (“Bentley”). As no responses have been filed by the various Defendants in this case, this matter is now ripe for consideration.

On October 26, 2011, Bentley filed her motion for leave to proceed *in forma pauperis*. In the complaint, Bentley alleged claims for intentional infliction of emotional distress, assault and battery, false arrest, wrongful imprisonment, malicious prosecution, and “outrageous conduct” under 42 U.S.C. § 1983. Upon careful consideration, this court allowed the motion for leave to proceed *in forma pauperis*, but dismissed the case as frivolous and failing to state a claim pursuant to 28 U.S.C. § 1915.

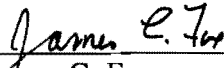
In the instant motion/declaration, it appears that Bentley, again, is alleging claims of malicious prosecution, false arrest, and wrongful imprisonment. As explained in the previous Order [DE-6], Bentley’s claims for false arrest and wrongful imprisonment are time-barred by the applicable state statute of limitations, which in this case is three (3) years. *See Wallace v. Kato*, 549

U.S. 384, 387 (2007) (stating that § 1983 provides a federal cause of action, but law of the state determines the statute of limitations); N.C. Gen. Stat § 1-52(5). Therefore, this court sees no reason to reconsider the judgment previously rendered dismissing these claims.

As to the malicious prosecution claim, even when construed liberally in light of Bentley's *pro se* status, the court found that the complaint contained no arguable factual basis from the September 2008 incident to support such a claim. In the instant motion/declaration of reconsideration, Bentley provides no basis which would alter this decision. Therefore, the court believes that dismissal of this claim previously entered is proper. Accordingly, Bentley's Motion/Declaration of Reconsideration [DE-9] is **DENIED**.

SO ORDERED.

This the 28<sup>th</sup> day of February, 2012.

  
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James C. Fox  
Senior United States District Judge